

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

NELSON J. DEL ROSARIO,

Petitioner,

Civil No. 08-2089 (JAF)

V.

(Crim. No. 00-672)

UNITED STATES OF AMERICA,

Respondent.

O R D E R

Petitioner, Nelson J. del Rosario, brings this pro-se petition for relief from a federal conviction pursuant to 28 U.S.C. § 2255. Docket Nos. 2, 6. Respondent, the United States of America, opposes, Docket No. 5; Petitioner replies, Docket No. 9.

Respondent notes that Petitioner has previously filed a § 2255 petition in this court and that we cannot entertain the instant petition without prior certification from the court of appeals. Docket No. 5. Before filing a successive § 2255 petition, a petitioner must file a motion in the court of appeals to authorize the district court to consider the second petition. 28 U.S.C. §§ 2244(b)(3), 2255(h).

Petitioner previously filed a § 2255 petition on January 26, 2006. Case No. 06-1110, Docket No. 1. We dismissed that petition on April 5, 2006. Case No. 06-1110, Docket Nos. 10, 11. Petitioner then filed the present § 2255 petition on September 23, 2008. Docket No. 2. We have no record of prior certification from the First Circuit authorizing this petition.

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Accordingly, we hereby **DENY** Petitioner's § 2255 motion, Docket Nos. 2, 6. Pursuant to Rule 4(b) of the Rules Governing § 2255 Proceedings, we summarily **DISMISS** this petition, because it is plain from the record that Petitioner is entitled to no relief.

IT IS SO ORDERED.

San Juan, Puerto Rico, this 1st day of April, 2009.

S/José Antonio Fusté
JOSE ANTONIO FUSTE
Chief U.S. District Judge